

Department of Energy

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occurred during the interval between issuance of the order and the date of filing of the request under this subpart, and was caused by force or circumstances beyond the requester's control.

§ 501.103 OFE decision.

(a) OFE shall issue an appropriate rule or order after considering the request for modification or rescission of a rule or order and other relevant information received during the proceeding.

(b) OFE will either grant or deny the request for modification or rescission and will briefly state the pertinent facts and legal basis for the decision.

(c) OFE will serve the rule or order granting or denying the request for modification or rescission upon the requester, or, if the action was initiated by OFE, upon the owner or operator of the affected powerplant or installation. OFE will publish a notice of the issuance of a rule or order modifying or rescinding a rule or order in the FEDERAL REGISTER.

Subpart H—Requests for Stay

§ 501.120 Purpose and scope.

(a) This subpart sets forth the procedures for the request and issuance of a stay of a rule or order or other requirement issued or imposed by OFE or these regulations but does not apply to the mandatory stays provided for in sections 202(b) and 301(a) of FUA. The application for a stay under this subpart will only be considered incidental to a proceeding on a request for modification or rescission of a final prohibition rule or order.

(b) The petitioner must comply with all final and effective OFE orders, regulations, rulings, and generally applicable requirements unless a petition for a stay is granted or is applicable under FUA.

§ 501.121 Filing and notice of petitions for stays.

(a)(1) The petition for a stay must be in writing and comply with the general filing requirements stated in § 501.7, in addition to any other requirements set forth in this subpart, and must be filed at the address provided in § 501.11.

(2) A claim for confidential treatment of any information contained in the petition for stay and supporting documents must be in accordance with § 501.7(a)(11), and filed at the address provided in § 501.11.

(b) OFE will publish notice of receipt of a petition for a stay under this subpart in the FEDERAL REGISTER.

§ 501.122 Contents.

(a) A petition for a stay shall contain a full and complete statement of all facts believed to be pertinent to the act or transaction for which a stay is sought. The facts shall include, but not be limited to, the criteria listed below in § 501.123(b).

(b) The petitioner may request a conference regarding the application. If the request is not made at the time the application is filed, it must be made as soon thereafter as possible. The request and OFE's determination regarding it will be made in accordance with subpart C of this part.

§ 501.123 Evaluation of the record.

(a) The record in a proceeding on a petition for stay shall consist of the petition and any related documents, evidence submitted at any public proceedings and any other information in the possession of OFE and made part of the record. OFE may investigate and corroborate any statement in the petition or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by its investigations. OFE may solicit or accept submissions from third persons relevant to the petition for stay or other document and any interested person will be afforded an opportunity to respond to these submissions. OFE, on its initiative, may convene a conference, if, in its discretion, it considers that the conference will advance its evaluation of the petition.

(b) *Criteria.* (1) OFE may grant a stay incident to a proceeding on a petition for modification of a rule or order if the petitioner shows:

(i) Irreparable injury will result if the stay is denied;

(ii) There is a strong likelihood of success on the merits;

(iii) The denial of a stay will result in a more immediate hardship or inequity

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to the petitioner than to other persons affected by the proceeding; and

(iv) It would be desirable for reasons of public policy to grant the stay.

§ 501.124 Decision and order.

(a) OFE will issue an order granting or denying the petition for a stay upon consideration of the request and other relevant information received or obtained during the proceeding.

(b) OFE will include in the order a brief written statement setting forth the relevant facts and the basis of the decision, including any appropriate terms and conditions of the stay.

Subpart I—Requests for Interpretation

§ 501.130 Purpose and scope.

This subpart establishes procedures for filing a formal request for and the issuance of an interpretation of a rule, order or other action by DOE. Any response, whether oral or written, to a general inquiry, or to other than a formal written request for interpretation filed with DOE, is not an interpretation and merely provides general information that may not be relied upon in any proceeding to determine compliance with the applicable requirements of FUA.

§ 501.131 Filing a request for interpretation.

A proceeding to request an interpretation is commenced by the filing of a "Request for Interpretation (FUA)." The request must be in writing and must also comply with the general filing requirements stated in § 501.7. Any claims for confidential treatment for any information contained in the request or other related documents must be made pursuant to § 501.7(a)(11). A request for interpretation should be filed with the Assistant General Counsel for Interpretations and Rulings at the address provided in § 501.11.

§ 501.132 Contents of a request for interpretation.

(a) A request for an interpretation must contain a complete statement of all the facts believed to be relevant to the circumstances, acts or transactions that are the subject of the request. The

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facts must include the names and addresses of all potentially affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in any documents submitted with the request. Copies of relevant contracts, agreements, leases, instruments, and other documents relating to the request must be submitted if DOE believes they are necessary for determination of any issue pending in the proceeding under this subpart. When the request pertains to only one step in a larger integrated transaction, the requesting party must also submit the facts, circumstances, and other relevant information pertaining to the entire transaction.

(b) The requesting party must include in the request a discussion of all relevant legal authorities, rulings, regulations, interpretations and decisions on appeal relied upon to support the particular interpretation sought.

(c) DOE may refuse to issue an interpretation if it determines that there is insufficient information upon which to base an interpretation.

§ 501.133 DOE evaluation.

(a)(1) The record shall consist of the request for an interpretation and any supporting documents, all relevant evidence presented at any public proceedings, written comments and any information in the possession of DOE that has been made part of the record.

(2) DOE may investigate and corroborate any statement in a request or related documents and may utilize in its evaluation any relevant facts obtained by the investigation. DOE may solicit or accept submissions from third persons relevant to the request for interpretation, or any other document submitted under this subpart, and the person requesting the interpretation will be afforded an opportunity to respond to these submissions.

(3) The General Counsel or his delegate will issue an interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of DOE during the proceeding. DOE's interpretation will, therefore, depend on the accuracy